is not drawee, the general presumption is that the deposit was for payment and title to the paper passes to the bank. Magee *Banks and Banking* (2d ed. 1913) secs. 266, 267; *Walker and Brock v. Ranlett* (1915) 89 Vt. 71, 93 Atl. 1054. *A fortiori* such a presumption seems justified where the check is deposited with the drawee bank. But see *Nat. Gold Bank v. McDonald* (1875) 51 Calif. 64. The instant case seems to prefer the technical rule of law to the equitable principle of estoppel, which might have been applied had the court been so inclined, for the plaintiff showed no loss through the bank's conduct and did nothing in reliance upon the extension of credit. See *Walnut Hill Bank v. Nat. Reserve Bank* (1913) 141 App. Div. 475, 139 N. Y. Supp. 117.

CRIMINAL LAW—NECESSITY OF MENS REA IN STATUTORY OFFENCES.—The defendant killed a domestic pigeon under an honest belief that it was a wild dove. The Larceny Act, (1861) 24 & 25 Vict. c. 96, sec. 23, provided that, "Whosoever shall unlawfully and wilfully kill any House Pigeon or Dove under such circumstances as shall not amount to Larceny at Common Law" shall be liable to a penalty. *Held,* that an honest mistake of fact was no defence to a charge under that section. *Horton v. Gwynne* [1921] 2 K. B. 661.

It is elementary that *mens rea* is essential to common-law offences. 1 Bishop, *New Criminal Law* (8th ed. 1892) sec. 301. But the legislature may make certain acts criminal irrespective of guilty knowledge. *Commonwealth v. Weiss* (1891) 139 Pa. 247, 21 Atl. 10. In the absence of specific language, the necessity of *mens rea* is a problem of construction, in the solution of which the purpose and design of the statute must be kept in view. *Troutner v. State* (1916) 17 Ariz. 506, 154 Pac. 1048. Guilty knowledge is essential to crimes *malum in se.* 1 Bishop, *op. cit.* sec. 303, note 2. But intent is usually immaterial in offenses *malum prohibitum. Mens rea* was immaterial in a conviction for selling liquor to a minor in violation of a statute. *State v. Brown* (1914) 73 Or. 325, 144 Pac. 444. And for furnishing oleomargarine without notifying patrons. *State v. Welch* (1911) 145 Wis. 86, 129 N. W. 656. Ignorance of fact was no defence to a charge of selling an intoxicant as a "soft drink." *Commonwealth v. Weiss* (1891) 139 Pa. 247, 21 Atl. 10. The instant case seems to have carried the *malum prohibitum* doctrine to the extreme. The preamble to the Larceny Act begins, ". . . . to consolidate and amend the statute law relating to Larceny and other similar offenses." The section in question is preceded by sections dealing with the stealing of horses, cows, sheep, and other animals. "Wilfully" in a criminal statute generally means with a bad purpose. *State v. Clifton* (1910) 152 N. C. 800, 67 S. E. 751. "Unlawfully" is sufficient to charge a wrongful intent. *Ex parte Ahart* (1916) 172 Calif. 762, 765, 159 Pac. 160, 162; *Newby v. State* (1905) 75 Neb. 33, 36, 105 N. W. 1099, 1100. It is believed, therefore, that *mens rea* should have been an essential element for conviction in the instant case. Such a result was reached in an indictment under the same section. *Taylor v. Newman* (1863, Q. B.) 4 B. & S. 89. The court, however, tried to distinguish that case.

EMPLOYERS' LIABILITY ACT—LACK OF KNOWLEDGE OF DESTINATION IMMATERIAL IN DETERMINING INTERSTATE STATUS OF SHIPMENT.—The plaintiff's intestate, a conductor of a switching crew, employed by the defendant on its terminal track at Buffalo, was killed by reason of the derailment of his engine while transferring three carloads of beef from a local storage house to the New York Central tracks in East Buffalo. The beef was in fact destined for Montreal and thence to England, but the waybill merely called for switching between lines, and the defendant had not been notified in advance of the foreign character of the shipment. The lower court ruled that the plaintiff's intestate was engaged in foreign commerce when killed. *Held,* (three judges *dissenting*) that the plaintiff could